

EXHIBIT 155

Newark, DE

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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IN RE: PHARMACEUTICAL INDUSTRY) MDL No. 1456
AVERAGE WHOLESALE PRICE) Civil Action No.
LITIGATION) 01-12257-PBS

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THIS DOCUMENT RELATES TO:) Hon. Patti B.
United States of America ex rel.) Saris
Ven-A-Care of the Florida Keys,)
Inc. v. Dey, Inc., et al., Civil)
Action No. 05-11084-PBS; and)
United States of America ex rel.)
Ven-A-Care of the Florida Keys,)
Inc. v. Boehringer Ingelheim)
Corp., et al., Civil Action No.)
07-10248-PBS)

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Videotaped deposition of
THE DELAWARE DIVISION OF MEDICAID AND MEDICAL
ASSISTANCE by CYNTHIA DENEMARK - VOLUME II
December 10, 2008 - Newark, Delaware

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Newark, DE

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<p>1 APPEARANCES:</p> <p>2</p> <p>3 Counsel for the United States of America</p> <p>4 UNITED STATES ATTORNEY'S OFFICE</p> <p>5 BY: BARBARA HEALY SMITH, ESQUIRE</p> <p>6 barbara.h.smith@usdoj.gov</p> <p>7 Assistant U.S. Attorney</p> <p>8 John J. Moakley U.S. Courthouse</p> <p>9 1 Courthouse Way</p> <p>10 Boston, Massachusetts 02110</p> <p>11 617-748-3100</p> <p>12</p> <p>13 Counsel for the State of Delaware</p> <p>14 DEPARTMENT OF JUSTICE</p> <p>15 BY: A. ANN WOOLFOLK, ESQUIRE</p> <p>16 ann.woolfolk@state.de.us</p> <p>17 BY: SUSAN PURCELL, ESQUIRE</p> <p>18 spurcell@state.de.us</p> <p>19 Carvel Office Building, 6th Floor</p> <p>20 820 N. French Street</p> <p>21 Wilmington, Delaware 19801</p> <p>22 302-577-8400</p>	<p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 Counsel for Abbott Laboratories</p> <p>4 JONES DAY</p> <p>5 BY: HILARY A. RAMSEY, ESQUIRE</p> <p>6 haramsey@jonesday.com</p> <p>7 51 Louisiana Avenue, N.W.</p> <p>8 Washington, D.C. 2001-2113</p> <p>9 202-879-3939</p> <p>10</p> <p>11</p> <p>12 ALSO PRESENT:</p> <p>13</p> <p>14 Chris Weiss, Videographer</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
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<p>1 APPEARANCES: (CONTINUED)</p> <p>2</p> <p>3 Counsel for EDS and the Witness</p> <p>4 EDS, LLC</p> <p>5 BY: ANNE SHUTTEE, ESQUIRE</p> <p>6 anne.shuttee@eds.com</p> <p>7 5400 Legacy Drive</p> <p>8 H3-3A-05</p> <p>9 Plano, Texas 75024</p> <p>10 972-605-5509</p> <p>11</p> <p>12 Counsel for Dey, Inc., Dey, L.P.</p> <p>13 and Dey L.P., Inc.</p> <p>14 KELLEY DRYE & WARREN LLP</p> <p>15 BY: BRENDAN J. CYR, ESQUIRE</p> <p>16 bcyr@kelleydrye.com</p> <p>17 101 Park Avenue</p> <p>18 New York, New York 10178</p> <p>19 212-808-5021</p> <p>20</p> <p>21</p> <p>22 (CONTINUED)</p>	<p>1 INDEX</p> <p>2</p> <p>3 WITNESS: Cynthia Denemark PAGE</p> <p>4 Examination By Ms. Ramsey..... 280, 490</p> <p>5 Examination By Ms. Healy Smith..... 454</p> <p>6 Examination By Mr. Cyr..... 488</p> <p>7</p> <p>8</p> <p>9 ABBOTT DELAWARE EXHIBITS</p> <p>10 NUMBER DESCRIPTION PAGE</p> <p>11 Exhibit Abbott-DE 001 - Abbott's Cross-Notice.. 336</p> <p>12 Exhibit Abbott-DE 002 - Document Produced by</p> <p>13 Ven-A-Care..... 408</p> <p>14 Exhibit Abbott-DE 003 - Document Supplied by</p> <p>15 Cynthia Denemark with</p> <p>16 info about Delaware's</p> <p>17 DMAC Reimbursement..... 436</p> <p>18 Exhibit Abbott-DE 004 - Two-page Document.</p> <p>19 Second Page is a Letter</p> <p>20 Dated 06/23/95 from</p> <p>21 Cynthia Denemark to</p> <p>22 Sue Gaston..... 437</p>

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<p>1 Delaware's knowledge about the inadequacy of the</p> <p>2 dispensing fee?</p> <p>3 A. I had discussions with Beth Laucius</p> <p>4 about general conversations about pharmacy</p> <p>5 reimbursement.</p> <p>6 Q. I'm sorry. Who was the individual that</p> <p>7 you listed?</p> <p>8 A. Beth Laucius.</p> <p>9 Q. Can you spell her last name, please?</p> <p>10 A. L-a-u-c-i-u-s.</p> <p>11 Q. And who was Ms. Laucius?</p> <p>12 A. Ms. Laucius was an employee of the</p> <p>13 Division that I reported to in some areas of my</p> <p>14 capacity as pharmacist consultant related to</p> <p>15 matters of administering the program.</p> <p>16 Q. What discussions did you have relating</p> <p>17 to the dispensing fee in 1993?</p> <p>18 A. It was probably in line with what had</p> <p>19 been submitted for the budget for changes in</p> <p>20 dispensing fee and, based on my recollection,</p> <p>21 that those budget requests and changes were</p> <p>22 turned down.</p>	<p>1 A. That's correct.</p> <p>2 Q. Okay. So is it fair to say that</p> <p>3 because the Delaware Medicaid Program was unable</p> <p>4 to increase dispensing fees due to budgetary</p> <p>5 constraints that it was aware that providers</p> <p>6 relied upon a margin on the ingredient costs in</p> <p>7 some instances supplement for the inadequate</p> <p>8 dispensing fee?</p> <p>9 A. Yes.</p> <p>10 Q. But it was Delaware's Medicaid or --</p> <p>11 excuse me. It was Delaware's belief that, in the</p> <p>12 aggregate, the payment was reasonable; --</p> <p>13 MS. HEALY SMITH: Objection.</p> <p>14 BY MS. RAMSEY:</p> <p>15 Q. -- is that correct?</p> <p>16 A. No.</p> <p>17 Q. No? Why not?</p> <p>18 A. When I talk about aggregate, I'm not</p> <p>19 speaking about ingredient costs and dispensing</p> <p>20 fee as the aggregate of the cost. My reference</p> <p>21 to aggregate was, in looking at all of the NDCs</p> <p>22 that are covered, and in the aggregate of all of</p>
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<p>1 Q. So is it fair to say that Delaware</p> <p>2 wanted to increase its dispensing fee, but</p> <p>3 because of political reasons or budgetary reasons</p> <p>4 it was unable to do so?</p> <p>5 MS. HEALY SMITH: Objection.</p> <p>6 THE WITNESS: I would agree to the</p> <p>7 budgetary constraints. I don't know anything</p> <p>8 related to the political nature of it.</p> <p>9 BY MS. RAMSEY:</p> <p>10 Q. Now, is it fair to say that because of</p> <p>11 the frustrations relating to the dispensing fee</p> <p>12 level, Delaware knowingly allowed margins on the</p> <p>13 ingredient cost to supplement the inadequate</p> <p>14 dispensing fee?</p> <p>15 MS. HEALY SMITH: Objection.</p> <p>16 THE WITNESS: I don't think I ever</p> <p>17 mentioned that anybody was frustrated.</p> <p>18 BY MS. RAMSEY:</p> <p>19 Q. Well, you indicated that the Delaware</p> <p>20 Medicaid Program wanted to increase the</p> <p>21 dispensing fee but because of budgetary reasons</p> <p>22 you were not able to do so; is that correct?</p>	<p>1 the claims, is this a reasonable reimbursement</p> <p>2 methodology, so we're defining -- we're using two</p> <p>3 different sets to -- to talk about aggregate.</p> <p>4 So now I understand that you're talking</p> <p>5 about -- when you talk about aggregate, that's</p> <p>6 the aggregate of the ingredient costs and the</p> <p>7 dispensing fee, which is not what I was talking</p> <p>8 about.</p> <p>9 When I talk about aggregate, I'm saying</p> <p>10 all of the claims.</p> <p>11 Q. I see.</p> <p>12 A. So can you ask your question again now</p> <p>13 that I understand what aggregate you're</p> <p>14 referencing?</p> <p>15 MS. RAMSEY: Sure do you want to --</p> <p>16 THE REPORTER: Sure.</p> <p>17 MS. RAMSEY: -- re-read the question?</p> <p>18 (Requested testimony read back.)</p> <p>19 BY MS. RAMSEY:</p> <p>20 Q. Does the witness understand the</p> <p>21 question?</p> <p>22 A. I understand the question.</p>

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